

Other Agency NEPA Documents

10.1 Review of Other NEPA Documents (40 CFR 1503.2) (516 DM 7)

EISs and other NEPA documents sent to the Department of the Interior from other Federal agencies are directed to the Commissioner's Office of Policy and are then forwarded to the appropriate regional or area office. The reviewing office should send a response to the designee and send a copy to the Commissioner's Office of Policy. At times, a coordinated Reclamation response may be appropriate. The Commissioner's Office of Policy will identify the lead Reclamation office, which will consolidate the responses and send them to the other agency, with copies to the Reclamation offices involved. The Commissioner's Office of Policy will send environmental program policy responses to the Department.

All bureaus, offices, or services of the Department normally will send their NEPA documents to the Commissioner, Bureau of Reclamation, for review. These will be treated the same way as documents from other Federal agencies and will be redirected to the proper regional or area office.

If a Reclamation regional office should receive a request for review of a NEPA document directly from another Federal agency, Departmental office, or Service, the regional or area office should inform the Commissioner's Office of Policy of the request and their response.

10.2 Comments on Other NEPA Documents

Comments should be limited to significant matters affecting Reclamation policy, projects, and facilities, or falling within Reclamation's expertise. The following are suggested for official comments:

- a. Does the proposed action relate to a Reclamation activity (water or power development) or affect Reclamation lands? If it does not,

that should be stated. Does it relate to the expertise of Reclamation? If it does neither, a “no comment” letter or response should be considered.

- b. Before writing a comment, consider how the author would react to the comment.
- c. The focus should not be on editorial comments—spelling, paragraph arrangement, and typographical errors.
- d. Trivia should be avoided. The focus should be on serious errors or omissions which lead to misunderstanding of impacts.
- e. The critique should not just point out deficiencies—suggestions for alternative language and sources for data should be offered.
- f. The critique should concentrate on better analysis of impacts.
- g. Comments asking a question should be avoided.

CEQ has published appendix II (attached) to their NEPA regulations which identifies the jurisdiction by law and/or special expertise of the various Federal agencies. This appendix identifies Reclamation as having jurisdiction and/or special expertise in a number of areas, including: irrigation effects, salinity control, pesticide use on Reclamation lands, hydroelectric power development, water storage and delivery projects, and basinwide water studies.

10.3 Procedure for Referrals of Other NEPA Documents (40 CFR 1504.1-.3, 516 DM 5.2)

EPA is required to review and comment publicly on all EISs and must refer the situation to CEQ for resolution if they determine an action is environmentally unsatisfactory.

Reclamation may also make a recommendation to refer another agency's EIS to CEQ for resolution of unresolved issues through the Commissioner and the Department. The referral process to CEQ should be considered a last resort, to be used only after concerted and timely attempts to resolve the issue at the local level have failed. Before Reclamation makes a referral to CEQ, the potential adverse environmental impacts will be weighed, considering:

- a. Possible violation of national environmental standards or policies

- b. Severity, geographical scope, and duration of the impacts
- c. Precedence of the agency's action
- d. Availability of environmentally preferable alternatives

The following procedures shall be followed if referral to CEQ is necessary:

- a. Advise the agency, at the earliest possible, time that the issue will be raised to the Commissioner for referral to CEQ unless a satisfactory agreement is reached
- b. Include such advisement in Reclamation's comments on the other agency's DEIS, except when the EIS does not contain adequate information to permit an assessment of environmental acceptability
- c. Identify any essential information that is lacking and provide a suggested timeframe for its submittal
- d. Transmit a documentation package containing items a, b, and c, (above) to the Commissioner, who forwards the notification of a referral to the Department
- e. The Department will send the documentation package to CEQ to demonstrate that the agency has been advised of a planned referral

If the matter is not resolved during the DEIS stage, Reclamation shall deliver its referral to CEQ no later than 25 days after the FEIS has been made available to the public. CEQ will not accept a referral after the 25-day period unless an extension has been granted by the agency producing the document. The referral shall consist of:

1. A copy of the letter signed by the Commissioner and sent to the agency, informing it of the referral and the reasons for the referral, and requesting that no action be taken to implement the matter until CEQ acts upon the referral. The letter shall include a copy of the statement in 2, below.
2. A statement supported by data leading to the conclusion that the matter is unsatisfactory from the standpoint of public health or environmental quality. The statement shall:
 - a. Identify the issues or facts in the controversy
 - b. Identify any existing environmental requirements or policies that would be violated by the matter

- c. Present the reasons Reclamation believes the matter is environmentally unsatisfactory
- d. Contain a finding by Reclamation regarding whether or not the issue is of national importance or a threat to national environmental resources or policies
- e. Review the steps taken by Reclamation to bring its concern to the attention of the lead agency at the earliest possible time
- f. Provide Reclamation's recommendations concerning a mitigation alternative, further study, or other course of action (including abandonment) necessary to remedy the situation